

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

James B. Skelton; Residents of)	
RAPHA Resident Care,)	C/A No. 3:09-1544-MBS
)	
Petitioner,)	
)	
vs.)	
)	ORDER
Dorn Veterans Medical Center,)	
)	
Respondent.)	
_____)	

Petitioner James B. Skelton, on his own behalf and on the behalf of “fellow residents of RAPHA Residential Care,” brings this action against Respondent Dorn Veterans Medical Center. Petitioner, proceeding pro se and in forma pauperis, contends that an individual identified as “Sam Lucas,” who apparently resides at the RAPHA Residential Care facility, is dangerous and disruptive. Petitioner seeks to have “Sam Lucas” removed from the facility and confined at the Dorn Veterans Medical Center. The complaint has been construed as seeking mandamus relief.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Robert S. Carr for pretrial handling. The Magistrate Judge reviewed the filing pursuant to the provisions of 28 U.S.C. § 1915 and applicable precedents. The Magistrate Judge filed a Report and Recommendation on June 24, 2009. The Magistrate Judge determined that the complaint should be dismissed for failure to state a claim on which relief may be granted. The Magistrate Judge recommended that the complaint be summarily dismissed without prejudice and without issuance and service process. Petitioner filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record and concurs in the recommendation of the Magistrate Judge. The court adopts the Report and Recommendation and incorporates it herein by reference. The within complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

July 16, 2009.

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.